

STATEMENT OF ENVIRONMENTAL EFFECTS



SITE: Lot 66 DP 516837
101 Grove Street
Earwood

PROPOSED DEVELOPMENT: Demolition of existing dwelling and construction of a new two storey dwelling



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INTRODUCTION

This Statement of Environmental Effects is submitted to Canterbury-Bankstown Council in accordance with the Environmental Planning and Assessment Act 1979, in support of a development application for partial demolition and alterations and additions to an existing dwelling. This report is based on plans prepared by Studio S + P, Drawing No. DA000 Revision A, dated 06.08.24.

The proposed works include:

- Partial demolition of existing dwelling
- Alterations and additions to an existing one-storey dwelling to provide a two storey four (4) bedrooms and an open plan living, dining and kitchen.
- Front and rear paving removed
- Rear shed to be demolished and replaced with a detached single garage

The subject site is located on the corner of Grove Street, with a secondary frontage to Louisa Street and rear frontage to Bedford Street. The allotment is rectangular in shape, with a frontage of 6m, a depth of 32m and total site area of 196m². The site currently contains a dwelling which is proposed to be demolished as part of this development.

The site has a minor rise towards the rear of the allotment, no trees or vegetation is required to be removed to allow for the proposed development. All required services are available to the allotment with the stormwater to be directed to an approved system in accordance with the attached drainage plan.

The surrounding neighbourhood consists of a mix of detached and semi-detached dwellings of one and two storeys that vary in design and age, within a medium density residential setting. No heritage items are noted on site, or within proximity to the subject site.

The following sections of this statement address the likely impact of the proposal.



LEGISLATIVE REQUIREMENTS

The following sections address the matters for consideration as listed in Part 4 Section 4.15 of the Environmental Planning & Assessment Act 1979. A comment is provided against each relevant matter.

(a)(i) Relevant environmental planning instruments

State Environmental Planning Policy (Sustainable Buildings) 2022

Chapter 2 – Standards for Residential Development - BASIX

State Environmental Planning Policy (Sustainable Buildings) 2022 requires all residential development in New South Wales to achieve a minimum target for energy efficiency, water efficiency and thermal comfort. The proposed development has been assessed in accordance with the relevant provisions of the Sustainable Buildings SEPP. It is demonstrated on the BASIX Certificate submitted with this application that the proposal achieves the required rating for energy efficiency, water efficiency and thermal comfort.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Clause 4.6 Contamination and remediation to be considered in determining development application

- (1) *A consent authority must not consent to the carrying out of any development on land unless—*
- (a) it has considered whether the land is contaminated, and*
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

The subject site is within an existing area historically utilised for residential purposes. No previous land uses are known to have occurred on the site that would result in potential land contamination. No further assessment is considered necessary in this instance.



State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 – Infrastructure

Part 2.3 Development controls

Division 15 Railways

Subdivision 2 Development in or adjacent to rail corridors and interim rail corridors

Clause 2.98 Development adjacent to rail corridors

- (1) *This section applies to development on land that is in or adjacent to a rail corridor, if the development—*
- (a) is likely to have an adverse effect on rail safety, or*
 - (b) involves the placing of a metal finish on a structure and the rail corridor concerned is used by electric trains, or*
 - (c) involves the use of a crane in air space above any rail corridor, or*
 - (d) is located within 5 metres of an exposed overhead electricity power line that is used for the purpose of railways or rail infrastructure facilities.*

The subject site is not located within proximity to a railway corridor, and does not have a common boundary with a railway corridor. No further assessment is anticipated in this regard.

Division 17 Roads & Traffic

Subdivision 2 Development in or adjacent to road corridors and road reservations

Clause 2.119 Development with frontage to classified road

- (1) *The objectives of this section are—*
- (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
 - (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*
- (2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—*
- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
 - (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
 - (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*



The subject site is not located within proximity to a classified road, and does not have a frontage or common boundary with the classified roadway. No further assessment is anticipated in this regard.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 – Vegetation in non-rural areas

The aims of this chapter of the policy are understood to relate to the protection of the biodiversity values of trees and other vegetation in non-rural areas and to preserve the amenity of non-rural area through preservation of trees and other vegetation.

The proposed development does not require the removal of any trees or vegetation. Replacement planting can be provided post development to ensure amenity of the allotment is maintained as a result of the development.

Canterbury-Bankstown Local Environmental Plan 2023

The LEP is divided into several Parts and the relevant provisions that apply to the subject development are listed, together with a comment with respect to compliance.

Part 2 Permitted or prohibited development

Clause 2.2 Zoning of land to which this plan applies

The subject site is zoned R3 Medium Density Residential pursuant to Clause 2.2 of Canterbury-Bankstown Local Environmental Plan 2023.

The proposed development is defined as a "dwelling house" being "a building containing only one dwelling".

The identified zone permits the construction of a 'dwelling house' subject to development consent from Council.

Clause 2.3 Zone Objectives and land use table

The objectives of the R3 Zone are:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*



- *To allow for certain non-residential uses that are compatible with residential uses and do not adversely affect the living environment or amenity of the area.*
- *To allow for development that provides a suitable visual transition between high density residential areas and low-density residential areas.*
- *To ensure suitable landscaping in the medium density residential environment.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To allow for increased residential density in accessible locations to maximise public transport patronage and encourage walking and cycling.*
- *To promote a high standard of urban design and local amenity.*

The proposed development can satisfy the objectives of the zone as it compliments the existing residential setting. Residential amenity can be maintained by the proposed development as the site is within an existing residential area intended for this form of development.

The proposed development is compatible with the existing and future character of the locality. The development is designed to provide a high level of amenity for adjoining residents whilst considering the natural constraints of the site.

The siting of the dwelling house is in the most appropriate location, which minimises disturbance and follows a similar development density evident throughout the area.

The proposed dwelling is considered to meet the objectives of the R3 Zone.

Part 4 Principal Development Standards

Clause 4.3 Height of Buildings

<i>Requirement</i>	<i>Provision</i>	<i>Compliance</i>
8.5m ridge height	<8.5m	Yes

Clause 4.4 Floor Space Ratio

<i>Requirement</i>	<i>Provision</i>	<i>Compliance</i>
0.65:1 (as per 4.4(2B)(b))	0.71:1	No – See Clause 4.6

Clause 4.6 Exceptions to development standards

The proposed development contravenes Clause 4.4 with regards floor space ratio. Please refer to the Appendix of this report for a request to vary the above development standards.



Part 5 _____ Miscellaneous provisions

Clause 5.10 Heritage Conservation

Upon reference to Schedule 5 in relation to local, State or Regional items of heritage significance including conservation areas, it was revealed that the subject property was not identified as a heritage item and is not located within proximity to any heritage items or conservation areas.

Clause 5.11 Bush fire hazard reduction

The subject site is not known to be bushfire prone land.

Clause 5.21 Flood planning

The subject site is not known to be located within a flood planning area.

Part 6 _____ Additional local provisions

Clause 6.2 Earthworks

No earthworks are proposed to site the proposed dwelling, utilising the existing sites topography.

* * *

Conclusion with respect to LEP requirements

The proposal is considered to generally satisfy the relevant objectives and development standards relating to dwelling houses contained within the Canterbury-Bankstown Local Environmental Plan 2023.

(a)(ii) Relevant draft environmental planning instruments

There are no known draft environmental planning instruments that would prevent the subject development from proceeding.

(a)(iii) Relevant development control plans

Canterbury-Bankstown Development Control Plan 2023

Chapter 2 – Site Considerations

<i>Requirement</i>	<i>Provision</i>	<i>Compliance</i>
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<u>Chapter 2.1 Site Analysis</u> Development for the following purposes must submit a site analysis plan: (a) attached dwellings (b) boarding houses (c) manor houses (d) multi dwelling housing (e) multi dwelling housing (terraces) (f) residential flat buildings (g) serviced apartments (h) shop top housing (i) housing estates (j) mixed use development containing dwellings (k) Torrens Title subdivision that proposes three or more lots.	The proposed development relates to a detached dwelling and therefore does not require a site analysis plan.	N/A
<u>Chapter 2.2 Flood Risk Management</u>	The subject site is not identified as being located in a flood prone area. Therefore, the provisions of this chapter do not apply to the proposed development.	N/A
<u>Chapter 2.3 Tree Management</u>	No trees are required to be removed as part of the proposed development. Additional tree planting can be provided if considered necessary.	Yes

Chapter 3 – General Requirements

<i>Requirement</i>	<i>Provision</i>	<i>Compliance</i>
<u>Chapter 3.1 Development Engineering Standards</u> <u>Section 2 civil engineering requirements</u> <u>2.1 Vehicular footway crossing design and construction</u> Must provide. widths in accordance with table 2a Residential: Width at boundary Min. 2.75m Max. 5.5m	4m provided	Yes
<u>2.3 Internal driveway requirements</u> Car able to access and exit in one motion	N/A – no internal driveways proposed as part of the development	N/A



<p><i>2.4 Sight distance requirements</i> Refer to the Australian Standard AS 2890.1 for minimum sight distance requirements.</p>	Suitable sight distance available from the proposed garage.	Yes
<p><u>Section 3 Stormwater drainage systems</u> <i>3.1 Development impacted by stormwater systems</i></p>	N/A	N/A
<p><i>3.2. Disposal of stormwater run off</i> To be designed to connect to Council's system at nearest suitable location.</p>	Drainage plans provided	Yes
<p><i>3.4 Roof gutter design</i> Roof, eave and /or box gutters must be sized using formulas in accordance with the Australian Standard AS/NZS 3500 and Table 4b</p>	Capable of complying	Yes
<p><i>3.6 Alternative solutions for stormwater disposal from single dwellings and dual occupancies</i> Council will consider alternative system solutions where drainage to a Council system cannot be achieved under gravity.</p>	Suitable stormwater drainage plans provided	Yes
<p><u>Chapter 3.2 Parking</u> <u>Section 2 – Off street parking rates</u> Dwelling houses – 2 car spaces</p>	1 space provided in proposed single garage. Existing non-compliance, proposed development provides additional space and on street parking is accessible.	Merits consideration
<p>Car parking and associated spaces such as access aisles in excess of requirement will be counted as gross floor area.</p>	Noted.	N/A
<p><u>Section 3 – Design and layout</u> <i>3.1 Parking location - Must not locate entries:</i></p>		



Close to intersections/signalised junctions Where adequate sight distance is not available Opposite parking entries Where right turning traffic entering may obstruct through traffic	Proposed access via Louisa Street	Yes.
<i>3.3 Where above ground parking is the only solution, to be at the rear of buildings.</i>	N/A – at ground parking proposed	N/A
<i>3.8 Location of driveways to allow shortest, most direct access over the nature strip from the road</i>	Short and direct access proposed. Please see swept paths plans.	Yes
<i>3.11 Residential development driveway widths:</i> One way – 3m clear width min. Two way – 5.5m clear width min.	4m provided	Yes
<u>Chapter 3.3 Waste Management</u>	Waste management plan provided.	Yes
<u>Chapter 3.4 Sustainable Development</u>	Basix certificate provided	Yes
<u>3.5 Subdivision</u>	Subdivision does not form part of the proposed development	N/A
<u>3.6 Signage</u>	Signage does not form part of the proposed development	N/A
<u>3.7 Landscape</u> New landscaping to complement existing street landscaping Consider the retention of trees Landscape design is to contribute to and take advantage of the sites characteristic's Retain, protect and enhance indigenous/native vegetation	The proposed development does not include the removal of any important vegetation or trees and has no impact upon the street landscaping with the proposed development located at the rear. Additional deep soil planting is proposed following the demolition of the existing dwelling at the rear of the site.	Yes

Chapter 4 - Heritage

Upon reference to LEP Schedule 5 in relation to local, State or Regional items of heritage significance including conservation areas, it was revealed that the subject property was not identified as having heritage significance or located within proximity of heritage items. Therefore, the provisions of this chapter do not apply to the subject site.



Chapter 5 – Residential Accommodation

5.2. Former Canterbury LGA

Section 2 – Dwelling Houses and outbuildings

<i>Requirement</i>	<i>Provision</i>	<i>Compliance</i>
<i>Site Planning</i>		
2.1. Minimum lot size and frontage Min. frontage width 15m	Existing allotment - 6.095m, Clause 4 confirms nothing in this section prevents Council giving consideration to the erection of a dwelling house on an allotment of land which existed as of 1 January 2013.	N/A
Generally rectangular	Rectangular in shape	Yes
Internal and battle-axe blocks and lots with irregular dimensions or shallow depths must satisfy the objectives of DCP.	N/A	N/A
2.2. Site coverage Site area <499m² Max. building footprint 300m ² Max. floor area of outbuildings 30m ² Max. total site coverage 60% 60% - 118.2m²	69.7m ² 28.8m ² proposed garaged Proposed – 123.3m ² (62.5%) – minor 1.5% addition to an existing non-compliance. The proposed dwelling has been designed and sited appropriately for the orientation and size of this particular allotment. The dwelling, despite its increase in site coverage, is not anticipated to have any detrimental impact onto future adjoining properties as it remains below the permitted ridge height, exceeds side and rear setback controls and is not considered to cast shadows beyond a level anticipated for this allotment.	Yes Yes. Minor non-compliance - Merits consideration
Site area 450m ² -599m ² Max. building footprint 330m ² Max. floor area of outbuildings 45m ² Max. total site coverage 50%	N/A	N/A



Site area 600m ² -899m ² Max. building footprint 380m ² Max. floor area of outbuildings 60m ² Max. total site coverage 40%	N/A	N/A
Site area >900m ² Max. building footprint 430m ² Max. floor area of outbuildings 60m ² Max. total site coverage 40%	N/A	N/A
2.3 Landscaping <u>Min. deep soil area % of site area</u> Site area <499m² - 15%	29.5m ² /15% provided	Yes
Site area 450m ² -599m ² - 20%	N/A	N/A
Site area >600m ² - 25%	N/A	N/A
Min. dimension 2.5m deep soil area	Provided at frontage	Yes
2.4 Layout and orientation Orientate development to maximise solar access and natural lighting	No change to existing orientation, proposed development suitably orientated to maximise solar access and natural lighting.	Yes
Avoid casting shadows onto neighbouring dwellings primary living area, private open space and solar cells	Considered acceptable	Yes
New development to avoid casting from existing nearby buildings.	Considered acceptable	Yes
<u>Building envelope</u>		
2.5 Height Max. 2 storey	2 storey proposed	Yes
Max. wall height 7m where LEP height max is 8.5m	Max. 7.178m	No – see below
Max. wall height 8m where LEP height max. is 9.5m	N/A	N/A
Finished floor level <1m above natural ground level	Provided	Yes
Basement and sub-floor projection	N/A	



Attics and roof terraces	N/A	N/A
Basement and sub-floor	N/A	N/A
Retaining walls – development without basement parking	N/A	N/A
Walls that would enclose a sub-floor area: (a) Max. 2m for steeply sloping land; (b) Max. 1m for all other land.		N/A
Retaining walls that would be located along, or immediately adjacent to, any boundary: (a) Max 3m for steeply sloping land, but only to accommodate a garage that would be located at street level; (b) Max 1m for all other land.		
Cut and fill – development without basement parking Max. 1m below ground level where will extend beyond exterior wall	No cut and fill proposed	N/A
No habitable rooms located in excavated area that would be located substantially below ground level	N/A – no habitable rooms proposed to be sited below natural ground level.	N/A
Max. 600mm fill above ground level where will extend beyond exterior wall	N/A – no fill proposed	N/A
Development proposing >1m cut, fill or retaining walls require engineers report.	N/A – no cut or fill proposed	N/A
2.6 Setbacks		
Min. 9m fronting a major road	N/A	N/A
<i><u>Dwelling houses with frontage ≤12.5</u></i> <i>Front setback</i> Min. 5.5m	4.751m to architectural projection 3.597m to balcony 5.145m to building line	No – see below
Max. 2m recess for the main entrance from front building line	1.53m from porch to building line	Yes



Where existing setback is less than 5.5m further encroachments by alterations/additions are not acceptable.	No change to existing dwellings setback.	Yes
<i>Side setback <12.5m</i> Min. 900mm Alterations and additions to be in line with existing ground level walls	0.911m min	Yes
<i>Rear setback</i> Min. 6m	8.842m to dwelling.	Yes
<i>Dwelling houses with frontage width ≥12.5</i> Front setback 6m or average setback of nearest dwelling either side of site Max. 2m recess for main entrance	N/A	N/A
Side setback Min. 1m Corner lots – min 2m from secondary street		
Rear setback Min 6m		
<u>Outbuildings</u> Side setbacks External wall height >2.7 – min 450mm	N/A – no outbuilding proposed N/A	N/A N/A
External wall height <2.7 may encroach setback.		
<u>First floor additions</u> Front and side may match ground floor wall of existing dwelling for depth 10m or 50% of length of façade whichever is greater.	Front and side setbacks match or is less than the ground floor <10m of existing ground floor.	Yes
<u>Swimming pools</u>	N/A – No swimming pool proposed	N/A



<p>Min. 1m side or rear setback for swimming pools and associated terraces Swimming pools not to be located in front setback</p> <p><u>Garages / Carports</u> One garage or carport may be constructed with a nil setback for sites that adjoin a rear laneway.</p> <p>Garage <50% of the rear boundary frontage to a lane and no wider than 6m</p> <p>Car parking structures must satisfy the Building Code of Australian requirements.</p> <p>The following minor building elements may project up to 1m into the minimum side setback area: a) Roof eaves, awnings, pergolas and patios; b) Stair or ramp access to the ground floor; c) Rainwater tanks; and d) Terraces above basement parking that are no higher than 1m above ground level (except dwelling houses, semi-detached dwellings and dual occupancy) Elements such as awnings, balconies, patios, pergolas, porches, and verandas, may project up to 1.5m into the required front setback articulation zone.</p>	<p>Garage proposed adjoining rear lane</p> <p>No – proposed garage 100% of rear boundary and 6.095m</p> <p>Capable of complying</p> <p>Roof eaves and awning project into the side setback area. N/A</p> <p>N/A N/A</p> <p>No proposed balcony encroaches 1.795m into required setback. Porch encroaches 0.355m into required setback</p>	<p>Yes</p> <p>No -see below</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A N/A</p> <p>No- variation requested</p>
<p><u>2.7 Building separation</u> a) Top storey of any two-storey buildings to be designed as a series of connected pavilion elements. b) Pavilion elements to have depth 10m-15m</p>	<p>Provided</p>	<p>Yes</p>



c) Articulate pavilion elements by an additional side boundary setback, and identified by separate roofs.		
Building Design		
2.8 General design <i>Contemporary built form</i> Contemporary architectural design acceptable if: (a) A heritage listing does not apply to the existing dwelling or to its immediate neighbours. (b) The proposed addition is not visually prominent from the street or from a public space. (c) Extensive remodelling of existing facades is proposed in accordance with controls of this DCP.	Subject site is not identified or within proximity to a heritage listing and proposed design would not appear prominent from the street.	Yes
<i>Building entries</i> Clearly identifiable Front door – may face side boundary or beneath carport if clearly identified by a porch or awning and pathways	Proposed porch and front door at primary street frontage	Yes
Min. 1 habitable room orientated towards street	Bedrooms orientated to primary street frontage	Yes
Sight lines to street from habitable rooms or entrances must not be obscured by ancillary structures.	Proposed panels across porch maintains sightlines as the design incorporates openings to still allow for the street to be viewed from the entry. Proposed first floor bedroom window also allows for visibility to the street.	Yes
<i>Internal dwelling layout</i> Primary living area and principal bedroom min. 3.5m dimension	Min. 4.8m provided in living room and 4m in the bedroom.	Yes
Secondary bedrooms min. 3m dimension	Min 3m provided	Yes
Provide general storage exclusive to bedroom wardrobes and kitchen cupboards.	Provided	Yes



<p><i>Façade Treatment</i> Development on corner lots must address both street frontages</p> <p>Use non-reflective materials, do not randomly mix light and dark coloured bricks, and treat publicly accessible wall surfaces with anti-graffiti coating. Facades visible from the street should be designed as a series of articulating panels or elements.</p> <p>Width of articulating panels: Street elevation 4-6m Side elevation 10-15m</p> <p>Avoid long flat walls along street frontage – stagger walls alignment at least 0.5m</p> <p><i>Pavilions</i> The top storey of any two-storey dwelling should be designed as a series of connected pavilion elements to minimise scale and bulk.</p> <p>Pavilion elements shall have a depth between 10-15m.</p> <p><i>Windows</i> Large windows -located at corners of building and to be screened with blinds, louvres, awnings or pergolas</p> <p>To be rectangular, square, circle and semi-circle windows acceptable in moderation.</p> <p><i>Ventilation</i> Incorporate natural ventilation features</p>	<p>Proposed development has a secondary frontage to Louisa Street. Both front and secondary frontages incorporate articulating elements, and varied materials to address the streets.</p> <p>Capable of complying. Material and finishes schedule to be provided.</p> <p>Articulating panels provided to both facades facing the street.</p> <p>Capable of complying</p> <p>Yes</p> <p>No long flat walls proposed, walls staggered and incorporate articulating features.</p> <p>Pavilions elements proposed at front and rear of dwelling.</p> <p>Yes</p> <p>Provided</p> <p>Capable of complying.</p> <p>Yes</p> <p>Proposed rectangular and square windows.</p> <p>Capable of complying</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
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<u>2.9 Roof design and features</u>		
Simple pitched roof	Provided both a pitched and flat roof	Merits consideration
Avoid complex roof forms – gables, hips and valleys or turrets	No gables, hips and valleys or turrets proposed.	Yes
Pitches to be compatible with nearby buildings	Considered to be compatible	Yes
Mansard roofs not permitted	No mansard roofs proposed	Yes
Pitched roof $\leq 30^\circ$ Greater pitches will be considered on merit	Proposed roof pitch 0-20°	Yes
<u>Amenity</u>		
<u>2.10 Solar access and overshadowing</u>		
<i>To proposed development</i> Min. 3 hours sunlight between 8am-4pm on 21 June where site orientation permits	Provided	Yes
Min. 3 hours of sunlight between 8am-4pm on 21 June to at least 50% of the open space surface area.	Provided as shown on plans (DA410-DA414).	Yes
Where existing overshadowing by buildings and fences is already greater than this control, sunlight is not to be reduced by more than 20%.	N/A	N/A
To neighbouring development Proposed development must retain a minimum of 3 hours of sunlight between 8.00am and 4.00pm on 21 June for existing primary living areas and to 50% of the principal private open space. If a neighbouring dwelling currently receives less than 3 hours of sunlight, then the proposed development must not reduce the existing level of solar access to that property.	Proposed development to have no additional impact to existing neighbouring development access to sunlight.	Yes
Sunlight to solar hot water or photovoltaic systems on adjoining	N/A no systems on neighbouring properties	N/A



<p>properties must comply with the following:</p> <p>a) Systems must receive at least 3 hours of direct sunlight between 8.00am and 4.00pm on 21 June.</p> <p>b) If a system currently receives less than 3 hours sunlight, then the proposed development must not reduce the existing level of sunlight</p>		
<p>Clothes drying areas on adjoining residential properties must receive a minimum of 3 hours of sunlight on 21 June.</p>	Capable of complying	Yes
<p><i>Shading devices</i> Windows and openings shall be appropriately located and shaded to reduce summer heat load and maximise sunlight in winter.</p>	Capable of complying	Yes
<p>Use moveable shading devices on large windows facing east and west that are capable of covering 100% of glazed areas. Eaves shall be a minimum of 350mm wide and allow for an overhang of approximately 65 degrees above the horizontal.</p>	No eaves provided, and not considered necessary given existing limited amount of sunlight identified on the shadow diagrams to be provided to the proposed development.	Merits consideration
<p>Use double-glazing, solar coated windows, curtains, or internal shutters to prevent heat loss and provide extra summer protection.</p>	Capable of complying	Yes
<p>Minimise external glare by avoiding reflective films and use of tint glass.</p>	No reflective films or tint glass proposed.	Yes
<p><u>2.11 Visual privacy</u> Locate and orient new development to maximise visual privacy between buildings, on and adjacent to the site.</p>	No change to existing allotment location and orientation.	Yes



<p>Minimise direct overlooking of rooms and private open space through the following:</p> <p>a) Provide adequate building separation, and rear and side setbacks; and</p> <p>b) Orient living room windows and private open space towards the street and/or rear of the lot to avoid direct overlooking between neighbouring residential properties.</p> <p>If living room windows or private open spaces would directly overlook a neighbouring dwelling:</p> <p>(a) Provide effective screening with louvres, shutters, blinds or pergolas; and/or</p> <p>(b) Use windows that are less than 600mm wide or have a minimum sill height of at least 1.5m above the associated floor level.</p>	<p>Proposed development provides compliant side and rear setbacks</p> <p>Proposed bedrooms on the first floor to be located towards the front, secondary and rear street.</p> <p>Living room windows and open space positioned to be located at the rear to avoid any overlooking.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<p><u>2.12 Acoustic Privacy</u></p> <p>Bedroom windows in new dwellings that would be located at or close to ground level are to be raised above, or screened from, any shared pedestrian pathway.</p> <p>Screen balconies or windows in living rooms or bedrooms that would face a driveway or basement ramp.</p>	<p>Capable of complying</p> <p>Capable of complying</p>	<p>Yes</p> <p>Yes</p>
<p><u>Fences and ancillary development</u></p>		
<p><u>2.13 Fences</u></p> <p>Front fences within front boundary setback – max. 1.2m</p> <p>Side fences max. 1.8m and must taper down to the height of front fence.</p> <p>Corner sites -fences to be max. 1.2m at street frontages</p>	<p>1m – proposed walls</p> <p>1.8m provided</p> <p>No – proposed wall and gate on secondary frontage >1.2m. Existing</p>	<p>Yes</p> <p>Yes</p> <p>Merits consideration</p>



Screens with min. 50% transparency may be 1.8m along front boundary	fencing is >1.2m and the proposed wall is considered to be an improvement to the existing fencing design and appearance being lower in height. N/A	N/A
<u>2.15 Building services</u> All letterboxes be installed to meet Australia Post standards.	Capable of complying	Yes
Integrate systems, services and utility areas with the design of the whole development – coordinate materials with those of the building and integrate with landscaping.	Capable of complying	Yes

Variation Requests-

Maximum wall height – Council's DCP provides a maximum wall height for dwellings of 7m where the maximum building height as per the Council's LEP is 8.5m. The proposed dwelling has a wall height of 7.178m. The proposal therefore results in a minor variation of 0.178m to Council's control.

The dwelling design provides articulation and variation in external materials to break up the visual bulk of the dwelling as viewed from the adjoining sites. As the overall height of the dwelling remains within the allocated 8.5m height limit and the increase in wall height will not result in excessive overshadowing of the adjoining sites.

Given the minor nature of the variation, the proposed dwelling is not considered to result in any impact beyond that of a compliant proposal. It is therefore requested that a variation be supported in this instance.

Front Setback – Council' DCP requires a front setback of 5.5m for allotments with a frontage less than 12.5m however the main entrance may encroach 2m into the front setback. The proposed development provides a compliant setback of 4.751m to architectural projection, however provides a non-compliant setback of 5.145m to building line and 3.597m to proposed first floor balcony. Thus requiring a variation to Council's front setback control for the ground floor building line and first floor balcony.

Due to the level of articulation provided the proposed development is considered to have no greater impact than that of a compliant proposal that has provided articulation elements forward of the building line. Landscaping is capable of being provided within the front setback to ensure the character of the street is maintained.



It is therefore considered to be appropriate for the proposed front setback to be supported and a variation be granted to the requirement in this instance.

Garage width – Council's policy requires that garages are kept to less than 50% of the dwelling rear boundary frontage and no wider than 6.0m. The proposed development includes a garage with a width of 6.095m or 100% of the rear boundary frontage. Thus, requiring a variation to Council's maximum permitted garage width.

The garage door extends across <50% of the rear façade, which is not considered excessive for a dwelling on a corner allotment and is recognised to exist along Bedford Road, where dwelling fronting Grove Street have a narrow front and rear width.

The proposed garage allows for improved onsite parking, and reflects similar scale and location to allotments within the surrounding area and along the street scene and therefore it is not considered that the garage would dominate the rear boundary frontage.

As the proposed garage will meet the needs of the landowners without resulting in any impact beyond that of a compliant proposal, it is considered reasonable for the variation to be supported in this instance.

* * *

Conclusion with respect to Policy requirements

The proposal is considered to generally satisfy the relevant objectives of the development controls relating to two storey dwellings, as contained within the Canterbury-Bankstown Development Control Plan 2023.

(iiia) Relevant planning agreement, or draft planning agreements

There are no known planning agreements that would prevent the proposed development from proceeding.

(b) Likely impacts of the development, including environmental impacts on both the natural and built environment of the locality

The following matters are understood to be relevant when considering on site impacts.



Siting and Design

The proposed two storey dwelling will be compatible in terms of height, bulk and scale with recent developments within the area.

The siting of the proposed development provides appropriate boundary setbacks, contributing to spatial separation and openness between dwellings. The articulated design of the proposed dwelling will limit the impact on the adjacent properties in terms of bulk, privacy and overshadowing and will not dominate any perceived views enjoyed by others.

The front façade of the proposed development contains a variety of roof forms and elements along with central entry features. In this way, the proposed two storey dwelling provides a clear definition of the entry and provides varied shadow lines due to the different construction elements and finishes.

Utilities

The site is connected to all necessary services and utilities including reticulated water and sewerage, overhead electricity and telecommunications.

Waste Minimisation

All waste will be deposited within the waste receptacle in accordance with the waste management plan attached to this application.

Noise and Vibration

All work will be undertaken during hours specified within the development consent. No vibration damage is envisaged to occur during construction.

(c) The suitability of the site for the development

The subject site is within an established residential area within reasonable driving distance to local commercial, retail and transport facilities. The existing road network provides easy access to all locations.

The proposed two storey dwelling, the subject of the application, can be constructed with all services necessary and have been designed to suit site constraints and the character of the surrounding residential setting.

The proposed works are permissible with development consent under the provisions of Canterbury-Bankstown Local Environmental Plan 2023, and generally satisfies the objectives of the Canterbury-Bankstown Development Control Plan 2023, as discussed above.



(d) Any submissions made in accordance with this Act or the regulations

Council will consider any submissions received during the relevant notification period for this development application.

(e) Public interest

As the proposal can satisfy the objectives of all relevant planning instruments and development control plan, approval of the subject dwelling is considered to be in the public interest.



CONCLUSION

The proposed development has been considered in respect of the relevant Environmental Planning Instruments and is deemed to be satisfactory with respect to those requirements taking into consideration the overall merits of the design presented.

The residential use of the site is permissible with development consent under the provisions of Canterbury-Bankstown Local Environmental Plan 2023, and can satisfy the objectives of the relevant development control plan for the area.

It is considered that the construction of a two-storey dwelling will complement and blend with the existing and likely future character of Earlwood. The proposal is not expected to have an adverse impact on the surrounding natural or built environment.

The appropriateness of the development has been evident within this statement and within the supporting documentation submitted to Council. The proposed two-story dwelling appropriately identifies and relates to the sites use as a residential development.

Having considered the requirements of all environmental planning instruments and DCP's the proposed landuse activity is considered acceptable and maintains the integrity of the existing locality. There are no potential adverse impacts from the development having considered the relevant heads of consideration under S4.15 of the E P and A Act 1979.

Given the relevant planning policies, codes and requirements of the EP & A Act 1979 have been duly satisfied the proposed development is on balance worthy of approval.

Olivia McQuaid (PIA (Assoc.))
Town Planner

Urban Planning & Building Consultants

7 August 2024



APPENDIX



Appendix 1 – Clause 4.6 Floor Space Ratio

It is requested that Council consider the following request for a variation under the provision of Clause 4.6 of Canterbury-Bankstown Local Environmental Plan 2023 during assessment of this application:

Canterbury-Bankstown Local Environmental Plan 2023

4.6 Exceptions to development standards

- (1) *The objectives of this clause are as follows—*
- a) to provide an appropriate degree of flexibility in applying certain development standards to particular development;*
 - b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Clause 4.6 of the LEP - Exceptions to development standards provides the opportunity for Council to vary the controls based on the merits of the application. The case of *Randwick v Micaul* indicates that Council, as the consent authority, maintains a high level of discretion with regard to the level of justification required in order to support a variation request. As detailed below, it is considered that the current application satisfies the Clause 4.6 criteria in the LEP, and therefore should be supported.

- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

The floor space ratio standard is not expressly excluded from the operation of Clause 4.6.

- (3) *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*
- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and*

As discussed below, it is unreasonable and unnecessary to require compliance with the floor space ratio control as all key Clause 4.6 requirements are satisfied despite the non-compliance. The proposed non-compliant development can meet the objectives of the floor space ratio and zone as outlined below.

The proposed FSR slightly exceeds the maximum FSR for the development by 9.2%. It is considered that the application, and in particular the proposed FSR should be supported as:

The subject site is zoned R3 Medium Density Residential pursuant to Clause 2.2 of Canterbury-Bankstown Local Environmental Plan 2023.



- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To allow for certain non-residential uses that are compatible with residential uses and do not adversely affect the living environment or amenity of the area.*
- *To allow for development that provides a suitable visual transition between high density residential areas and low-density residential areas.*
- *To ensure suitable landscaping in the medium density residential environment.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To allow for increased residential density in accessible locations to maximise public transport patronage and encourage walking and cycling.*
- *To promote a high standard of urban design and local amenity.*

The proposed development can satisfy the objectives of the zone as it complements the existing residential setting. Residential amenity can be maintained by the proposed development as the site is within an existing residential area intended for this form of development.

The proposed development is compatible with the existing and future character of the locality. The development is designed to provide a high level of amenity for adjoining residents whilst considering the natural constraints of the site. The proposed works provide high quality architectural features that complement and enhance the streetscape and character of the surrounding area.

The proposed dwelling is considered to meet the objectives of the R3 Zone.

The objectives of Clause 4.4 are:

- (1) *The objectives of this clause are as follows—*
 - (a) *to establish the bulk and maximum density of development consistent with the character, amenity and capacity of the area in which the development will be located,*
 - (b) *to ensure the bulk of non-residential development in or adjoining a residential zone is compatible with the prevailing suburban character and amenity of the residential zone,*
 - (c) *to encourage lot consolidations in commercial centres to facilitate higher quality built form and urban design outcomes,*



- (d) to establish the maximum floor space available for development, taking into account the availability of infrastructure and the generation of vehicular and pedestrian traffic,*
- (e) to provide a suitable balance between landscaping and built form in residential areas.*

The objectives of this control are understood to be a measure to ensure the dwelling does not have an unreasonable impact on adjoining properties or the streetscape by way of bulk and scale whilst ensuring that the existing character of the area is respected by the development. Further the objective of the development standard is to control the density and intensity of land uses.

The proposal is for a two-storey dwelling that has a similar footprint to the existing dwelling and the surrounding area. The proposal therefore does not result in an unreasonable bulk and scale of the built form within the established streetscape. Further the architectural styling is considered to be consistent with the established streetscape and character of the locality. As above, the FSR proposed represents a numerical non-compliance whereby the proposal sits well within the locality and presents a compatible built form, bulk and scale to other existing dwellings in the area, and to the desired building scale as intended by Clause 4.4 FSR controls.

As there is no perceived impact on the streetscape character of the area or the amenity of adjoining properties as a result of the additional floor area, the proposed development is considered to be able to meet the objectives of the floor space ratio control despite the numerical non-compliance. It is recommended that the application be supported, despite the required variation, as it will complement and blend with the character of the area and is in keeping with the objectives of the zone and specific development control.

The proposed design is considered to be a practical result for the site and creating no adverse environmental effects on the neighbourhood or directly adjoining properties. In the circumstances of this particular case, it is considered that strict compliance with the floor space ratio requirements of Canterbury-Bankstown Local Environmental Plan 2023 is unreasonable and unnecessary as the 9.23% increase to the gross floor area of the development is generally in keeping with the existing development theme in this area of Earlwood. The required variation does not result in a development that is inconsistent with the developing character of the area and will result in no greater impact than that of the existing dwelling and a compliant proposal. Further, the floor area for the proposed development can still attain the objectives of the Environmental Planning and Assessment Act 1979, Zone R3 Medium Density Residential and the subject development standard despite the numerical non-compliance. The streetscape theme of Grove Street is maintained by the development and is considered to be provide sufficient environmental planning ground to justify the minor variation. Thus, the variation should be supported in this instance



(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

The requested variation relates to Clause 4.4(2) as shown below

4.4 Floor space ratio

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

(2B) Despite subclause (2), the following maximum floor space ratios apply—

(a) for a building used for non-residential purposes—

(i) on land in Zone R2 in Area 1—0.4:1, and

(ii) on land in Zone R2 or R3 in Area 2—0.5:1, and

(iii) on land in Zone R4 in Area 2—0.75:1,

(b) for a building used for the purposes of dwelling houses or semi-attached dwellings on land in Area 2—

(i) for a site area less than 200m²—0.65:1, and

(ii) for a site area greater than 200m² but less than 600m²—0.55:1, and

(iii) for a site area of 600m² or more—0.5:1,

(c) for a building used for the purposes of dual occupancies on land in Zone R2 in Area 2—0.5:1,

(d) for a building on land identified as "Area 5" on the Floor Space Ratio Map, where mid-block connections of at least 20m wide are not provided for public use—2:1.

The subject site is identified as having a maximum permitted FSR of 0.65:1. The site area of 196.8m² and therefore a maximum gross floor area of 127.92m².

In this instance a gross floor area of 141.1m² and a floor space ratio of 0.71:1 is proposed. Thus, the proposed development requires an overall variation of 9.23% to the development standard.

A compliant development would detrimentally impact the evolving streetscape through a reduced gross floor area in the subject development which would detract from a streetscape containing larger dwellings due to the approval process followed.

The variation is not considered to have detrimental impact on the streetscape. The proposed development is not considered to be excessive in size, having a total floor area of 141.1m², and provides a modestly sized dwelling in keeping with similar developments in the surrounding area.

Whilst being numerically non-compliant with the floor space ratio control the proposed development is not anticipated to detrimentally impact the streetscape or surrounding developments by way of solar access or privacy. In fact, the proposed development will result in an improved amenity and streetscape appearance of the site by ensuring that the bulk and scale of the development is consistent with the recent development theme of Grove Street.



The objects of the Environmental Planning and Assessment Act 1979 are understood to be as follows:

1.3 Objects of Act

The objects of this Act are as follows—

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

Most relevant objects to this development are objects 1.3(c), 1.3(g) and 1.3(h) as outlined above. The proposed development relates to construction of a dwelling house within an established residential setting. Allowing redevelopment of the subject site, despite the numerical non-compliance with the FSR provisions, ensures that subject site provides housing choice within this area of Earlwood. Further, allowing the increase in floor space ratio ensures that the proposed dwelling enhances the streetscape which is considered to promote orderly and economic use and development of the land.

The design of the proposed development is of architectural styling that promotes good design through improved functionality of the floor plans of the development. Further the proposed development provides open areas within the design ensuring that the amenity of the development is enhanced as a result of the development.

Whilst "environmental planning grounds" are not separately defined within the EP&A Act 1979 the proposed development is considered to provide orderly and economic use and development of the land through retention of an existing dwelling. Further the proposal meets good design principals and enhanced amenity of the dwelling through reconfiguration of the existing design



without detrimentally impacting the surrounding development by way of visual bulk, privacy, amenity and solar access.

(4) The consent authority must keep a record of its assessment carried out under subclause (3).

Council is to keep records of their assessment of the subject application.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if –

- a) The subdivision will result in 2 or more lots of less than the minimum area specified for such lot by a development standard, or*
- b) The subdivision will result in at least one lot that is less than 90% of the minimum area specified for such lot by a development standard.*

The subject site is not identified to be located in the above zones and does not seek subdivision of the site.

(8) This Clause does not allow development consent to be granted for development that would contravene any of the following –

- a) A development standard for complying development*
- b) A development standard that arises, under the regulations under the Act, in connection with a commitment set out in BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated*
- ba) Clause 4.4, to the extent that it applies to land in Zone B4 that has a maximum floor space ratio of 3:1.*
- c) Clause 5.4,*
- caa) Clause 5.5*
- ca) Clause 6.27*

The subject site is not identified to be located in the above zones, does not proposal miscellaneous permissible uses, or secondary dwellings. As such 4.6 remains a relevant clause to the proposed development and subject site.

SUMMARY

As discussed above, compliance with the floor space ratio development standard is considered to be unreasonable and unnecessary in the circumstances of this case. There are sufficient environmental grounds to justify the development contravening the development standard as the proposed development provides good architectural design and amenity which fosters orderly and economic use of the land.



Accordingly, Council's agreement is sought to the proposed variation in maximum FSR for the site.

The proposed development is able to achieve the objectives of the zone and floor space ratio clause through the design of the development. As such the proposed development is considered to be in the public interest and there is no public benefit in maintaining the development standard in this instance.

Accordingly, Council's agreement is sought to the proposed variation in height of buildings for the site.